

REMARKS

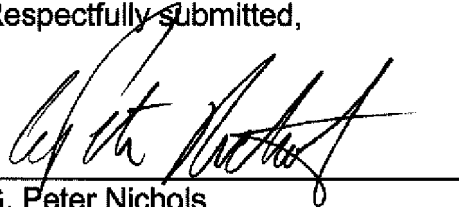
Applicants note that the restriction requirement has been made final and the above listing of claims reflects that claims 15-20 have been withdrawn.

Claims 1-14 were rejected under 35 USC 101 as claiming the same invention as claims 1-14 of US 6,689,716. The stated rationale is that claims 1-14 of the present application "would be inherently catalytic in view of claims 2-14 and the specification, which defines them". According to MPEP 804 that rationale is not the appropriate test for determining whether a statutory basis for double patenting exists. According to 35 USC 101, the term "same invention" means identical subject matter. A reliable test is "whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent" (See MPEP 804). The MPEP explains that an invention defined by a claim reciting a compound having a "halogen" substituent is not identical to or substantively the same as a claimed reciting the same compound except having a "chlorine" substituent in place of the halogen because "halogen" is broader than "chlorine". The current claims are analogous to the example provided in the MPEP. Here, the claims of the current application are directed to structures; whereas, the claims of US 6,689,716 are directed to catalytic structures. Put another way, structures are broader than catalytic structures, like halogen is broader than chlorine. Because it appears that the current situation is one of domination, not statutory double patenting, the rejection should be withdrawn. Accordingly, Applicants request withdrawal of the rejection and issuance of a Notice of Allowance.

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If there are any questions concerning this submission, the undersigned attorney
can be reached at (312) 321-4276 to resolve any remaining issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Peter Nichols", is written over a horizontal line.

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